

EXHIBIT 28

1 N. FAUX
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 SANDRA GUZMAN,)
)
5 Plaintiff,)
) 09-CIV-9323
6 vs.) (BSJ) (RLE)
)
7 NEWS CORPORATION, NYP HOLDINGS,)
 INC., d/b/a THE NEW YORK POST,)
8 and COL ALLAN, in his official)
 and individual capacities,)
9)
 Defendants.)
10 -----)

11
12 VIDEOTAPED DEPOSITION OF NICOLE FAUX
13 New York, New York
14 March 19, 2012
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23 Reported by:
24 KATHY S. KLEPFER, RMR, RPR, CRR, CLR
25 JOB NO. 47774

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1 N. FAUX
 2 MR. LERNER: Objection.
 3 Go ahead.
 4 A. Like has someone invited you out, is
 5 there like a -- a work outing, a function or,
 6 you know, social event, you know. I'm not sure
 7 I'm clear what you're asking.
 8 Q. Okay. Well, let me try and clarify.
 9 Have you ever spoken to Col Allan
 10 face-to-face at any event outside of work other
 11 than at Langan's?
 12 A. Yes.
 13 Q. Where else would you have spoken with
 14 him?
 15 A. The Plumm.
 16 Q. What is The Plumm?
 17 A. The Plumm is a nightclub in New York
 18 City. I'm not sure where.
 19 Q. How many times have you spoken with
 20 him at The Plumm?
 21 A. Once.
 22 Q. And when was that?
 23 A. It was for the Page Six Magazine
 24 launch.
 25 Q. Okay. What is Page Six?

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 2 A. He congratulated me on a great job on
 3 the magazine, thought it was fantastic, and
 4 thanks for my hard work.
 5 Q. Did he make any other comments to you
 6 that day?
 7 A. Congratulated me on my weight loss.
 8 Q. What did he say about your weight
 9 loss?
 10 A. That I looked fantastic and
 11 congratulations.
 12 Q. Do you remember anything else he said?
 13 A. No.
 14 Q. Did you discuss this party at The
 15 Plumm with Sandra Guzman after the fact?
 16 A. Yes, I did.
 17 Q. What did you tell her about it?
 18 A. Stopped in her office and remember
 19 laughing, demonstrating, you know, my dancing.
 20 Also making jokes about his dancing.
 21 Q. Making jokes about whose dancing?
 22 A. Col Allan.
 23 Q. Did you dance with Col Allan?
 24 A. I did.
 25 Q. How many times did you dance with him?

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 2 A. Page Six is the gossip column in the
 3 New York Post and they tried to make it a
 4 magazine and so we did the prototypes before it
 5 became a weekly. So I was a part of that design
 6 and art direction.
 7 Q. How did you end up being at The Plumm
 8 for this Page Six party?
 9 A. I'm not sure how I was invited, but --
 10 I don't know, but I was there.
 11 Q. Was Sandra Guzman there?
 12 A. Yes.
 13 Q. Who else was at this party?
 14 A. Maybe a couple dozen New York Post
 15 employees, and I believe it was more for the
 16 advertisers. The party was more geared to
 17 inviting them to get them interested in the
 18 magazine, so it wasn't a huge cast, you know,
 19 for Post employees.
 20 Q. How many people would you say, just an
 21 estimate, how many people were there?
 22 A. Maybe two dozen, but, you know, I
 23 didn't count.
 24 Q. And what did you and Col Allan talk
 25 about at The Plumm?

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 2 A. Once.
 3 Q. What kind of dancing was it?
 4 A. Goofy. Funny. Nothing crazy.
 5 Nothing serious.
 6 Q. I mean, was it like a slow dance? A
 7 fast dance?
 8 A. It was fast. It was not even like 20
 9 seconds, 30 seconds long. Just it was a -- just
 10 dancing.
 11 Q. Was there any physical contact between
 12 you and Col Allan during this dance?
 13 A. Yes.
 14 Q. Describe the contact.
 15 A. At one point when I was dancing, our
 16 backs touched, and then when I had turned
 17 around -- I'm sorry, not to use visuals --
 18 turned around, my knees were slightly bent when
 19 I was dancing, and they knocked into his leg.
 20 Q. Okay. Did he ask you to dance?
 21 A. No, I approached him.
 22 Q. Why did you approach him?
 23 A. Because it was Col Allan. Old face,
 24 name, you know, girl from Indiana, having a good
 25 time, first New York party.

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 2 THE VIDEOGRAPHER: The time is 11:37
 3 A.M. We are back on the record.
 4 MR. CLARK: Okay. Ms. Faux, that's
 5 all the questions I have for you today.
 6 Thank you very much for coming.
 7 THE WITNESS: Okay. Thanks.
 8 THE VIDEOGRAPHER: The time is 11:37
 9 A.M. We're going off the record.
 10 (Pause in the proceedings.)
 11 THE VIDEOGRAPHER: The time is 11:45
 12 A.M. We're back on the record.
 13 EXAMINATION BY
 14 MR. LERNER:
 15 Q. Ms. Faux, good morning.
 16 A. Good morning.
 17 Q. Ms. Faux, you testified earlier today
 18 about a party at The Plumm in which you danced
 19 with Col Allan. Do you recall that?
 20 A. Yes.
 21 Q. At the party at The Plumm, how long
 22 did your dance with Mr. Col Allan last?
 23 A. Maybe 30 seconds.
 24 Q. Who initiated the dance, your dancing
 25 with Col Allan?

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 2 A. Correct.
 3 Q. So at no time did you feel the heat of
 4 his testicles or his balls?
 5 A. No.
 6 Q. Did Mr. Allan do anything
 7 inappropriate while you were dancing?
 8 A. No.
 9 Q. Did he make you feel uncomfortable
 10 while you were dancing?
 11 A. No.
 12 Q. Did you ever feel uncomfortable while
 13 you were dancing?
 14 A. No.
 15 Q. Did you complain to Ms. Guzman about
 16 the dancing?
 17 A. No.
 18 Q. Did you complain to Ms. Guzman about
 19 Mr. Allan's conduct during the dancing?
 20 A. No.
 21 Q. Why did you have the conversation with
 22 Ms. Guzman that you described earlier?
 23 A. We were recapping the night. I was
 24 making fun of him and I had -- I went too far
 25 with it. I was making jokes about him, and then

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 2 A. I did.
 3 Q. Did Mr. Col Allan -- did Mr. Allan
 4 ever press his body into you?
 5 A. No.
 6 Q. Did he ever press his genitals into
 7 you?
 8 A. No.
 9 Q. Did you ever feel his genitals?
 10 A. No.
 11 Q. Did you ever feel his penis?
 12 A. No.
 13 Q. Were you aware during the dancing of
 14 his penis at any time?
 15 A. No.
 16 Q. Did you feel his testicles?
 17 A. No.
 18 Q. Did you ever feel heat from his
 19 testicles?
 20 A. No.
 21 Q. And when you used the term "balls"
 22 earlier in your testimony, that was a vernacular
 23 for "testicles," right?
 24 A. Vernacular?
 25 Q. It was a slang for "testicles"?

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 2 it turned into a sexual nature, but it wasn't.
 3 It was my -- it was my humor and it didn't --
 4 was not meant to be taken literally, and it was
 5 just what I thought a private conversation
 6 between friends, co-workers, that -- and that's
 7 how we had a rapport. A lot of time it was --
 8 sometimes it was very sexual between -- not we
 9 were sexual, but, you know, sexual jokes or
 10 talking about sex, and it was just I got a
 11 reaction out of her and it was -- we were both
 12 laughing.
 13 Q. Did you ever tell Ms. Guzman that Mr.
 14 Allan made you feel uncomfortable?
 15 A. No, I never told her.
 16 Q. Did you ever tell Ms. Guzman that you
 17 were afraid to be alone with Mr. Allan?
 18 A. No.
 19 Q. Did you ever tell Ms. Guzman that you
 20 were afraid to be with him under any
 21 circumstances?
 22 A. No.
 23 Q. Did you ever tell anybody that?
 24 A. No.
 25 Q. Did you ever ask Ms. Guzman to

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complain on your behalf about that event?

A. No.

Q. Did you ever make a complaint about Mr. Allan's behavior on the night of The Plumm party?

A. No.

Q. Have you ever been uncomfortable during a meeting or a conversation with Mr. Allan at any time?

A. No.

MR. LERNER: I have no further questions.

FURTHER EXAMINATION BY

MR. CLARK:

Q. Just a couple things real briefly, Ms. Faux. I don't want you to tell me what you discussed, but did you have a chance to consult with your attorneys prior to coming back and giving the testimony you just gave?

A. I'm unclear what you're asking me.

Q. Were you able to consult with your attorneys during the break we just took?

A. What do you mean, "consult"? Like --

Q. Talk to them?

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balls"?

A. Like I said, I was making a joke. It was an expression. I did not feel the heat of his balls.

Q. But you told her, "I felt the heat from his balls"; is that correct?

A. I told her, "I felt the heat of his balls" as an expression. I was making jokes. I was -- we were laughing. No one was crying. I wasn't shaking underneath a desk. It was a joke. It was something that I said, not something that actually happened.

(Continued on the next page to include the jurat.)

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A. Just standing around. Just standing there. You know, they were talking.

Q. So you didn't talk to them?

A. Well, I said, "How did I do?"

Q. That's fine. I don't want to know what you said. I'm not asking what you said to them or what they said to you. I'm just wanted -- was asking if you were speaking to them during the break?

A. Words were exchanged.

Q. Are you changing your testimony that you said to Ms. Guzman that, "I felt the heat of his balls"?

A. What do you mean, am I changing my testimony?

Q. Let me take a step back. Did you testify earlier you said to Ms. Guzman, "I felt the heat of his balls"?

A. Right, and I explained it was an expression; it was not to have been taken literally.

Q. So you're not backing off from that statement? In other words, you made the statement to Ms. Guzman, "I felt the heat of his

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MR. CLARK: Okay. Thank you.

THE WITNESS: Thank you.

MR. CLARK: That's all I have. We can go off the record.

THE VIDEOGRAPHER: The time is 11:50 A.M. We're going off the record.

oOo

NICOLE FAUX

Subscribed and sworn to
before me this day
of 2012.